



BILLING CODE: 3510-DS-P

**DEPARTMENT OF COMMERCE
International Trade Administration**

[C-570-113]

Certain Collated Steel Staples from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain collated steel staples (collated staples) from the People's Republic of China (China) for the period of investigation (POI) January 1, 2018 through December 31, 2018. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Bob Palmer or Joshua Simonidis, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-9068 or (202) 482-0608, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on July 3, 2019.¹

On August 9, 2019, pursuant to a request from the Kyocera Senco Industrial Tools, Inc. (the petitioner),² Commerce postponed the preliminary determination of this investigation to November 4, 2019.³ On October 24, 2019, Commerce issued its preliminary critical circumstances determination determining that critical circumstances exist for imports from all producers and exporters of the subject merchandise from China.⁴

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.⁵ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

¹ *See Certain Collated Steel Staples from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 84 FR 31840 (July 3, 2019) (*Initiation Notice*).

² *See* Petitioner's Letter, "Certain Collated Steel Staples from the People's Republic of China: Petitioner's Request to Postpone the Deadline for the Preliminary Determination," dated August 5, 2019.

³ *See Certain Collated Steel Staples from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 84 FR 42896 (August 19, 2019).

⁴ *See Certain Collated Steel Staples from the People's Republic of China: Preliminary Affirmative Determinations of Critical Circumstances in the Antidumping and Countervailing Duty Investigations*, 84 FR 59353 (November 4, 2019) (signed October 24, 2019) (*Preliminary Affirmative Critical Circumstances Determination*).

⁵ *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination: Countervailing Duty Investigation of Certain Collated Steel Staples from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope of the Investigation

The product covered by this investigation is collated staples from China. For a complete description of the scope of this investigation, *see* Appendix I and “Scope Comments” section below.

Scope Comments

In accordance with the *Preamble* to Commerce’s regulations,⁶ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁷ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*.⁸ Based on our preliminary analysis of these comments, we have not made any changes to the scope of the investigation. For a summary of the product coverage comments and responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.⁹

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that confers a benefit to the

⁶ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁷ *See Initiation Notice*, 84 FR at 31841.

⁸ *See* Peace Industries Ltd.’s Letter, “Certain Collated Steel Staples from Korea, the People’s Republic of China, and Taiwan: Scope Comments,” dated July 16, 2019; *see also* BeA Fasteners USA, Inc.’s (BeA) Letter, “Antidumping and Countervailing Duty Investigations on Certain Collated Steel Staples from the People’s Republic of China, the Republic of Korea, and Taiwan: Scope Comments,” dated July 16, 2019; Petitioner’s Letter, “Certain Collated Steel Staples from the People’s Republic of China: Response to Scope Comments,” dated August 2, 2019; BeA’s Letter, “Antidumping and Countervailing Duty Investigations on Certain Collated Steel Staples From the People’s Republic of China, the Republic of Korea, and Taiwan: Supplemental Scope Comments,” dated October 11, 2019; and Petitioner’s Letter, “Certain Collated Steel Staples from the People’s Republic of China: Response to BeA’s Supplemental Scope Comments,” dated October 17, 2019.

⁹ *See* Memorandum, “Less-Than-Fair-Value and Countervailing Duty Investigations of Certain Collated Steel Staples from the People’s Republic of China: Preliminary Scope Decision Memorandum,” dated concurrently with this notice (Preliminary Scope Decision Memorandum).

recipient, and that the subsidy is specific.¹⁰ In making these findings, Commerce relied in part on facts available, and because Commerce found that certain respondents did not act to the best of their ability to respond to our requests for information, Commerce drew an adverse inference where appropriate in selecting from among the facts otherwise available.¹¹ For further information, *see* “Use of Facts Otherwise Available and Adverse Inferences” in the Preliminary Decision Memorandum. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final determination in this countervailing duty investigation with the final determination in the companion antidumping duty investigation of collated staples from China, based on a request made by the petitioner.¹² Consequently, the final countervailing duty determination will be issued on the same date as the final antidumping duty determination, which is currently scheduled to be issued no later than March 17, 2020, unless postponed.

All-Others Rate

Sections 703(d)(1)(A)(i) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any

¹⁰ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

¹¹ *See* sections 776(a) and (b) of the Act.

¹² *See* Petitioner’s Letter, “Certain Collated Steel Staples from the People’s Republic of China: Petitioner’s Request for Alignment of Countervailing Duty Investigation Final Determination Deadline with Antidumping Investigation Final Determination Deadline,” dated October 2, 2019.

zero and *de minimis* rates and any rates based entirely on facts otherwise available, as outlined under section 776 of the Act.

In this investigation, Commerce preliminarily assigned rates based entirely on facts available for Hai Sheng Xin Group Co., Ltd. and Ningbo Deli Stationery. Therefore, the only rate that is not zero, *de minimis*, or based entirely on facts otherwise available is the rate calculated for Zhejiang Best Nail Industrial Co., Ltd. (Best Nail). Consequently, the rate calculated for Best Nail is preliminarily assigned as the rate for all other producers and exporters.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy Rate
Zhejiang Best Nail Industrial Co., Ltd.	12.38 percent
Hai Sheng Xin Group Co., Ltd.	156.99 percent
Ningbo Deli Stationery	156.99 percent
All Others	12.38 percent

Suspension of Liquidation

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the “Scope of the Investigation” section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Section 703(e)(2) of the Act provides that, given an affirmative determination of critical circumstances,¹³ any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which the notice of initiation of the investigation was published. Commerce preliminarily found that critical circumstances exist for all imports of subject merchandise from China. In accordance with section 703(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries from all exporters and producers of the subject merchandise from China that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

All interested parties will have the opportunity to submit case and rebuttal briefs on the preliminary scope determination. The deadline for these comments will be established in the

¹³ See *Preliminary Affirmative Critical Circumstances Determination*.

Federal Register notice regarding the preliminary determination of the companion antidumping duty investigation of collated staples from China to be issued at a later date.

Case briefs or other written comments, not pertaining to scope issues, may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁴ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Parties are reminded that briefs and hearing requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date.

¹⁴ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. Pursuant to section 705(b)(2) of the Act, if the final determination is affirmative, the ITC will make its final injury determination before the later of 120 days after the date of this preliminary determination or 45 days after Commerce's final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: November 4, 2019.

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The merchandise covered by the scope of this investigation is certain collated steel staples. Certain collated steel staples subject to this proceeding are made from steel wire having a nominal diameter from 0.0355 inch to 0.0830 inch, inclusive, and have a nominal leg length from 0.25 inch to 3.0 inches, inclusive, and a nominal crown width from 0.187 inch to 1.125 inch, inclusive.

Certain collated steel staples may be manufactured from any type of steel, and are included in the scope of the investigations regardless of whether they are uncoated or coated, and regardless of the type or number of coatings, including but not limited to coatings to inhibit corrosion.

Certain collated steel staples may be collated using any material or combination of materials, including but not limited to adhesive, glue, and adhesive film or adhesive or paper tape.

Certain collated steel staples are generally made to American Society for Testing and Materials (ASTM) specification ASTM F1667-18a, but can also be made to other specifications.

Excluded from the scope of these investigations are any carton-closing staples covered by the scope of the existing antidumping duty order on *Carton-Closing Staples from the People's Republic of China*. See *Carton-Closing Staples From the People's Republic of China: Antidumping Duty Order*, 83 FR 20792 (May 8, 2018).

Certain collated steel staples subject to these investigations are currently classifiable under subheading 8305.20.0000 of the Harmonized Tariff Schedule of the United States (HTSUS).

While the HTSUS subheading and ASTM specification are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Preliminary Determination of Critical Circumstances
- IV. Alignment
- V. Injury Test
- VI. Diversification of China's Economy
- VII. Use of Facts Otherwise Available and Adverse Inferences
- VIII. Subsidies Valuation
- IX. Benchmarks and Interest Rates
- X. Analysis of Programs
- XI. Recommendation

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